

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 666 of 1986

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For Approval and Signature

THE HON'BLE MR. JUSTICE S.K. KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CLASS IV GOVERNMENT SERVANTS COLONY

Versus

CONTROLLER OF ACCOMODATION

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Appearance:

MR VS MEHTA for Petitioner

SERVED for Respondent No. 1, 2, 3

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CORAM : MR. JUSTICE S.K. KESHOTE

Date of decision: 08/04/96

ORAL JUDGEMENT

The petitioner widow of Bhojraj Kanchan Gunani, a class-IV government servant who retired from service on 31st October 1994 and who died later on. The husband of the petitioner was occupying a quarter under the

allotment of the Government since 1961. This allotment of quarter No. G.T. F-2 was made to the husband of the petitioner on 24th July 1961. The husband of the petitioner expired on 31st March 1985 and he occupied the quarter till the day of his death and thereafter the petitioner has continued to occupy that quarter. During the lifetime of the husband of the petitioner, he submitted that an application for conversion of the quarter occupied by him from rental to hire-purchase scheme. This prayer has been made by the husband of the petitioner in pursuance of the resolution dated 18th February 1975. The government under the aforesaid resolution has resolved and directed that the quarters in H & L Colonies situated in Ahmedabad area should be converted from rental to hire-purchase for allotment to the occupants. Many a person have been given the benefit but that benefit was not given to the husband of the petitioner on the ground that he has since been retired. Under the letter dated 15th January 1985 the respondent has informed the husband of the petitioner to vacate the government quarter. Not only this but the respondents further demanded the rent at the market rate at the rate of Rs.606.45 per month and the arrears to the tune of Rs.3032.25. The petitioner is only getting family pension. This writ petition was filed by the petitioner wherein a prayer has been made that as per Government Resolution dated 18.2.1985 her case may be considered for the transfer of the quarter by way of sale on hire purchase basis. The demand of the market rent as well as the order and the letter of demand of the rent have also been challenged. By interim relief the petitioner has been protected. It is ordered that the petitioner shall not be evicted from the residential quarter. No reply has been filed to the writ petition nor anybody has made any appearance to make oral submissions. On the contrary, Ms Sejal Mandavia made a statement that the office has no instructions in the matter. I have gone through the contents of the writ petition and the relevant documents. Resolution dated 18.2.1985 provides that the existing 369 low income group houses constructed by the Gujarat Housing Board, Paldi, Ahmedabad, shall be converted from rental scheme to hire-purchase for allotment on hire-purchase basis and prescribed the terms and conditions for the purchase of such allotment. The relevant condition no.5 reads as under:

"(v) Widows of those Government Servants who have died while in service and were residing in these houses immediately before their death, not having house of their own."

A bare reading of this condition gives out that the petitioner's claim for the allotment of the quarter in question on hire-purchase basis deserves consideration. The petitioner's husband was in service and was in occupation of the quarter on allotment by the government on 22.6.1972. He continued in the occupation of this quarter till the date of the issuance of the resolution dated 18.2.1985. I fail to see any justification with the order of the respondent to decline the claim of the husband of the petitioner for the allotment of the quarter on hire purchase basis.

In the result, this petition succeeds and the order at Annexure-F to the petition dated 19.9.1985 and the order dated 27.6.1985 at Annexure-E to the petition and the order dated 15.1.1985 at Annexure-D to the petition are set aside. The respondents are directed to consider the case of the petitioner for allotment of the quarter in question on hire-purchase scheme. Till the claim of the petitioner is considered, she may not be evicted from the quarter. In case the claim of the petitioner is not accepted for the allotment of the quarter to her on hire-purchase basis then, the respondent shall pass a reasoned order and the copy of the same may be sent to the petitioner by registered post. While considering the case of the petitioner for the market rent of the quarter the respondent will keep in mind that the petitioner is a widow and only getting family pension. With the aforesaid directions, Rule is made absolute with no order as to costs.

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